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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,688	06/16/2005	Luciano Salice	27419/260	4955
7590 Gunnar G Leinberg Nixon Peabody Clinton Square PO Box 31051 Rochester, NY 14603-1051	01/03/2007		EXAMINER WILLIAMS, MARK A	
			ART UNIT 3676	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	01/03/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	10/539,688	SALICE, LUCIANO
	Examiner	Art Unit
	Mark A. Williams	3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 October 1996.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
 - 4a) Of the above claim(s) 8-13 is/are withdrawn from consideration.
- 5) Claim(s) 7 is/are allowed.
- 6) Claim(s) 1-4 and 8 is/are rejected.
- 7) Claim(s) 5, 6, and 10-13 is/are objected to.
- 8) Claim(s) 8-13 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arakawa et al., US Patent 4,660,871.

An opening and closing latch device, adapted to facilitate closing and opening of a movable part of furniture with respect to the furniture, comprising a container 2 defining an internal cavity with at least one open side and comprising a sliding guide, characterized in that it also comprises a sliding element (3, 24), placed in the sliding guide and comprising a substantially rigid hook 26 at a first end, suitable to catch a hooking element integral with said movable part, elastic means 4, placed between the sliding element and the container, so that the elastic means exert an elastic force on the sliding element suitable to make it slide, a track 6 placed on one side of the sliding element defining a cam path and, as best understood, the plan layout of which forms a closed geometrical figure, tappet

means 7, integral with the sliding guide, suitable to travel along the cam path, so as to define a number of positions of the sliding element, corresponding to a release position, a lock position and two intermediate opening and closing positions of said movable part, and in that the sliding guide is inclined on at least a part thereof at 5 of an angle with respect to the direction along which a closing and opening movement takes place between the movable part and the furniture. The container comprises an insert 8 at least a part 37 of which is partially triangular in shape, one side of which defines a side of the sliding guide. The track is provided on the side of the sliding guide constituted by said insert 8a. The container comprises a cover forming one of the sides of the cavity, and a base 9 with inherent connection means joining the cover to the base.

Arakawa discloses the claimed invention except (1) the track being placed on one side of the sliding guide, and tappet means integral with the sliding element, suitable to travel along the cam path, as claimed, and (2) explicit teaching of the container comprising a cover forming one of the sides of the cavity, and a base with connection means joining the cover to the base, as claimed.

Regarding (1), such a modification constitutes a reversal of parts and are considered functionally and structurally equivalent. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify

the device in this way, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Regarding (2) it would have been an obvious matter of design choice to make the different portions of the device of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. Such a modification is not critical to the design and would have produced no unexpected results. One reason for making such a modification may be to allow for a different process of assembly.

Election/Restrictions

3. Newly submitted claims 8-13 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the latch can be made by a materially different method, such as molding.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim ~~8-13~~ ^{s 8-13 ALE} withdrawn from

consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Allowable Subject Matter

4. Claim 7 is allowed.
5. Claims 5 and 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 10/2/06 have been fully considered but they are not persuasive.

Applicant argues that the hook of Arakawa is flexible, and thus is not substantially rigid as claimed. It is the position of the examiner that "substantially rigid" is a relative term and that the hook portion of Arakawa is broadly considered to be substantially rigid. In fact, it would have to possess some rigid qualities even to function as a securing element. Applicant still has not distinguished his device over the device of the applied art of record.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (571) 272-7064. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax

phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Williams

12/19/06



Thomas B. Williams
Supervisory Patent Examiner
Group 3600